

Article - Natural Resources

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§3–104.

(a) The Service has all powers necessary for carrying out the purposes of this subtitle, including the following rights and powers set forth in this section.

(b) To have perpetual existence as a corporation.

(c) To adopt bylaws, rules, regulations, policies, and procedures for the regulation of its affairs and conduct of its business.

(d) To adopt an official seal and alter it.

(e) To maintain one or more offices at a place or places it chooses.

(f) To appoint agents and employees, to prescribe their duties, and fix their compensation as set forth in this subtitle.

(g) To sue and be sued.

(h) To acquire, construct, reconstruct, rehabilitate, improve, maintain, lease as lessor or as lessee, repair and operate projects within or without the State. The Service shall establish reasonable rules and regulations for the use of any project. It may acquire, purchase, hold, lease as lessee, and use any franchise and any property, real, personal or mixed, tangible or intangible, or any interest therein necessary to carry out the purposes of the Service. It may sell, lease as lessor, transfer, and dispose of any property or interest in it that it has acquired.

(i) To acquire by gift, purchase, or the exercise of the right of eminent domain in the manner prescribed by law lands, structures, real or personal property rights, rights-of-way, franchises, easements, and other interests in lands, including lands lying underwater and riparian rights which are located within and without the State as it considers necessary or convenient for the construction or operation of a project, upon terms and at prices considered by the Service to be reasonable and can be agreed upon by the Service and the owner of the interest, and to take title to the interest in the name of the Service. At any time ten days after the return and recordation of the verdict or award in any condemnation proceeding, the Service may take possession of the property condemned, upon paying to the clerk of the court the amount of the award and all costs taxed to that date, notwithstanding any appeal or further proceeding by defendant. At the time of the payment, the Service shall give

its corporate undertaking to abide by any judgment in any appeal or further proceedings.

(j) To borrow money and issue bonds or notes for the purpose of paying all or any part of the cost of any one or more projects or for any other purpose of the Service; to provide funds to be paid into any debt service reserve fund; to secure the payment of the bonds or notes or any part thereof by pledge or deed of trust of all or any part of its revenues or other available money or by pledge, mortgage, or deed of trust of any one or more facilities or properties; to combine projects for financing purposes and to make agreements with or for the benefit of the purchaser or holder of the bonds or notes, with the issue of the bonds or notes, whether issued or to be issued, as the Service may deem advisable; and in general to provide for the security of the bonds or notes and the rights of their holders.

(k) To combine, after consultation with the municipalities affected, one or more water supply, wastewater purification, solid waste disposal, or energy project with any other project as a single system for the purpose of operation or financing.

(l) To fix, alter, charge, and collect rates, fees, and charges for the use of or for the services, products, or energy furnished or produced by the Service.

(m) To enter into contracts with the federal or any state government, or any unit, instrumentality, or subdivision thereof, or with any municipality or person within or without the State, providing for or relating to the furnishing of services to or the facilities of any project of the Service, or in connection with the services or facilities provided by any water supply project, solid waste project, wastewater purification project, or energy project owned or controlled by the other contracting party, including contracts for the construction and operation of any project in the State or in any other state. These contracts may make provision for:

(1) The payment by the other contracting party to the Service of a fixed amount for the collection, processing, treatment, storage, transporting, use, or disposal of a stated amount of solid waste (whether or not the stated amount of solid waste is collected, processed, treated, stored, transported, used, or disposed of), or of all or any portion of the operating expenses of one or more projects;

(2) The utilization by the other contracting party of one or more projects for the processing, treatment, storage, transporting, use, or disposal of all or any portion of solid waste over which such party has control;

(3) The collection by the other contracting party or its agents or by agents of the Service of fees, rates, or charges for the services and facilities rendered to a municipality or its inhabitants, and for the enforcement of delinquent charges for such services and facilities; or

(4) The abandonment, restriction, or prohibition of the construction or operation of competing facilities. The provisions of any contract with a municipality shall be deemed to be for the benefit of bondholders or noteholders as designated by the Service and may be made irrevocable so long as any bonds or notes of the Service secured by such contract are outstanding.

(n) (1) To make any contract or agreement the Service determines to be necessary or incidental to the performance of its duties and to the execution of the purpose of and the powers granted by this subtitle, including contracts with the federal or any state government, or any unit, instrumentality, or municipality thereof, or with any person, on terms and conditions the Service approves.

(2) The Service may make contracts or agreements relating to:

(i) The use by the other contracting party or the inhabitants of any municipality of any project acquired, constructed, reconstructed, rehabilitated, improved, or extended by the Service under this subtitle or the services therefrom or the facilities thereof;

(ii) The use by the Service of the services or facilities of any water supply system or project, solid waste system or project, or liquid waste system or project, not owned or operated by the Service;

(iii) The sale of any fuel, steam, electricity, energy, waste product, or other material or resource derived from the operation of any project;

(iv) The acceptance, processing, treatment, use, and disposal of solid wastes by one or more projects; or

(v) The employment or retention of consulting and other engineers, superintendents, financial advisors, attorneys, accountants, and other employees, advisors, or agents as in the judgment of the Service are necessary or desirable.

(3) The contracts and agreements of the Service may provide for the collecting of fees, rates, or charges for the projects provided by the Service and for the enforcement of delinquent charges for the projects. The provisions of any contract or agreement of the Service, and of any ordinance or resolution of the governing body of a municipality enacted pursuant thereto, shall be deemed to be for the benefit of bondholders or noteholders.

(o) To enter upon and excavate any municipal street, road, alley, highway, or any other public way for the purpose of installing, maintaining, and operating a

water supply, solid waste disposal, wastewater purification, or energy project provided for under this subtitle. The Service may construct, reconstruct, rehabilitate, or extend in the street, road, alley, or highway, a water supply facility, sewer or storm drain, energy transmission facility, or any appurtenance thereof, without a permit or the payment of a charge subject, however, to reasonable regulation established by the governing body of any municipality having jurisdiction in the particular respect. If any municipal street, road, alley, or highway is to be disturbed, the governing body shall be notified within a reasonable period of time, and the street, road, alley, or highway shall be repaired and left by the Service in the same condition as, or in a condition not inferior to, that existing before the street, road, alley, or highway was torn up. The Service shall bear every incidental cost.

(p) To enter upon lands, waters, or premises as is necessary or desirable for the purposes of making surveys, soundings, borings, and examinations to accomplish any purpose authorized by this subtitle. The Service is liable for actual damage done.

(q) To make application for, receive, and accept from any state or federal government, or any unit, instrumentality, or subdivision thereof, grants for or in aid of the planning, financing, construction, acquisition, maintenance, or operation of any project, and to receive and accept aid or contributions from any source of money, property, labor, or other things of value, to be held, used, and applied only for the purpose for which the grants and contributions are made in the furtherance of the purposes of this subtitle. In those cases involving federal and State grants, including, but not limited to, grants administered by the Department of the Environment for the collection and treatment of sewage and industrial wastes under the Sanitary Facilities Fund, in Title 9 of the Environment Article, the Service shall be eligible the same as a municipality.

(r) To make directly, or through the hiring of consultants, any plans, surveys, investigations, and studies relating to water supply, liquid and solid wastes transportation, purification, disposal techniques, recycling, energy production and transmission, conservation of resources, and management methods or the effects of these techniques, and methods, in order to improve or evaluate the effectiveness or economy of its services and operations. The Service may charge in whole or in part the costs of the investigations and studies against one or more projects or Service districts, or it may include them in whole or in part in its general operating expenses depending on the expected applicability of the studies and investigations. The Service may supplement grants or other aids received from the federal government or from other sources to assist in carrying out the purposes of this subtitle. Consultants hired under this subsection may not be deemed to be providing architectural or engineering services as those terms are defined in § 11–101 of the State Finance and Procurement Article.

(s) To conduct hearings and investigations for the furtherance of the purposes of this subtitle.

(t) To take and hold title to any project that may be transferred to the Service, and to assume jurisdiction over and provide for the maintenance and operation of the project, all on such terms as may be mutually agreed upon between the Service and the transferor. The Service may contract with any municipality to assume the payment of the principal of and interest on obligations or indebtedness of such municipality incurred in connection with any project and may undertake to operate any project in such a manner as to provide for the payment of all outstanding obligations or indebtedness applicable to the project and the interest thereon and to transfer to the appropriate municipality an amount equal to the debt service payments prior to the applicable payment date. Subject to the approval of the Board of Public Works, the State may lease, lend, grant, or otherwise convey to the Service any property that is necessary for the purposes of this subtitle.

(u) To do all things necessary to carry out its purposes and for the exercise of the powers granted in this subtitle.

(v) Except as provided in §§ 3–109 and 3–110 of this subtitle, the Service does not have any power to construct, establish, or operate any new solid waste disposal project within the boundaries of any county or municipal corporation without the express consent of the governing body of the county or municipal corporation.

(w) To permit a municipality to construct, operate, maintain, expand, relocate, replace, renovate, or repair facilities provided for in this subtitle when the Service certifies that it is not in a position to provide the necessary construction, operation, maintenance, expansion, relocation, replacement, renovation, or repair of facilities within the municipality. Notwithstanding other provisions in this subtitle and limited to the circumstances in this subsection, a municipality shall finance construction, operation, maintenance, expansion, relocation, replacement, renovation, or repair of facilities in accordance with its statutory authority, including the receiving of State and federal grants if available. The municipality may construct, operate, maintain, expand, relocate, replace, renovate, or repair these facilities.

(x) In making plans, surveys, studies, and investigations under this subtitle, the Service shall include in its findings its statement of the impact that a project may have on the site on which the project is to be located if that site has cultural, historic, or social significance.

(y) To create, with the approval of the Board, private corporations for purposes consistent with this subtitle.

(z) To exercise all the corporate powers granted Maryland corporations under the Maryland General Corporation Law.

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